

1 **ADAM J. BREEDEN, ESQ.**
2 Nevada Bar No. 008768
3 **BREEDEN & ASSOCIATES, PLLC**
4 7432 W. Sahara Ave., Suite 101
5 Las Vegas, Nevada 89117
Phone: (702) 819-7770
Fax: (702) 819-7771
Adam@Breedenandassociates.com
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

10 LATIA ALEXANDER, individually as heir of
ISAIAH T. WILLIAMS and in her capacity as
11 Special Administrator of the Estate of ISAIAH
T. WILLIAMS.

CASE NO.

12 Plaintiff,

13 | v.

14 LAS VEGAS METROPOLITAN POLICE
15 DEPARTMENT, a political subdivision of the
State of Nevada; KERRY KUBLA, in his
16 individual capacity; BRICE CLEMENTS, in
his individual capacity; ALEX GONZALES,
17 in his individual capacity; RUSSELL
BACKMAN, in his individual capacity;
18 JAMES ROTHENBURG, in his individual
capacity; JAMES BERTUCCINI, in his
19 individual capacity; DOES I-XX, inclusive,

COMPLAINT

DEMAND FOR JURY TRIAL

20 || Defendants

Plaintiff, LATIA ALEXANDER, individually as heir of ISAIAH TYREE WILLIAMS and
in her capacity as Special Administrator of the Estate of ISAIAH TYREE WILLIAMS, by and
through her counsel, Adam J. Breeden, Esq. of BREEDEN & ASSOCIATES, PLLC, hereby alleges
the following as her Complaint as follows:

PARTIES, JURISDICTION AND VENUE

21 1. Plaintiff LATIA ALEXANDER is a resident and citizen of the State of Nevada.

1 County of Clark, and was at all times relevant to this Complaint.

2 2. Plaintiff ALEXANDER is the mother of Isaiah Tyree Williams, deceased, and brings
3 this action in her individual capacity as an heir of Williams and also as the duly appointed Special
4 Administrator of his Estate.

5 3. Defendant, LAS VEGAS METROPOLITAN POLICE DEPARTMENT (hereinafter
6 referred to as “LVMPD”), is a public agency police department organized pursuant to NRS Chapter
7 280, operating in the County of Clark, State of Nevada. It is a “law enforcement agency” as that
8 term is defined in NRS § 289.010(2) and is political subdivision of Clark County, Nevada.

9 4. Defendant, KERRY KUBLA is, on information and belief, a resident and citizen of
10 the State of Nevada, County of Clark, and was at all times relevant to this Complaint. This Defendant
11 at the times alleges herein was a “peace officer” in the State of Nevada as that term is defined in
12 NRS § 289.150(1) and was working as an officer for LVMPD.

13 5. Defendant, BRICE CLEMENTS is, on information and belief, a resident and citizen
14 of the State of Nevada, County of Clark, and was at all times relevant to this Complaint. This Defendant
15 at the times alleges herein was a “peace officer” in the State of Nevada as that term is defined in
16 NRS § 289.150(1) and was working as an officer for LVMPD.

17 6. Defendant, ALEX GONZALES is, on information and belief, a resident and citizen
18 of the State of Nevada, County of Clark, and was at all times relevant to this Complaint. This Defendant
19 at the times alleges herein was a “peace officer” in the State of Nevada as that term is defined in
20 NRS § 289.150(1) and was working as an officer for LVMPD.

21 7. Defendant, RUSSELL BACKMAN is, on information and belief, a resident and citizen
22 of the State of Nevada, County of Clark, and was at all times relevant to this Complaint. This Defendant
23 at the times alleges herein was a “peace officer” in the State of Nevada as that term is defined in
24 NRS § 289.150(1) and was working as a sergeant for LVMPD.

25 8. Defendant, JAMES ROTHENBURG is, on information and belief, a resident and citizen
26 of the State of Nevada, County of Clark, and was at all times relevant to this Complaint. This Defendant
27 at the times alleges herein was a “peace officer” in the State of Nevada as that term is defined in
28 NRS § 289.150(1) and was working as an officer for LVMPD.

1 9. Defendant, JAMES BERTUCCINI is, on information and belief, a resident and
2 citizen of the State of Nevada, County of Clark, and was at all times relevant to this Complaint. This
3 Defendant at the times alleges herein was a “peace officer” in the State of Nevada as that term is
4 defined in NRS § 289.150(1) and was working as an officer for LVMPD.

5 10. The true names and capacities of Defendants DOES I-XX, inclusive, are unknown
6 to the Plaintiff, who therefore sues these Defendants by such fictitious names. Specifically, but
7 without limitation, Plaintiff does not know the exact name of all officers involved in the events
8 alleged herein who were responsible for service of a warrant and the shooting death of her son,
9 Isaiah Tyree Williams. This includes the persons responsible for obtaining a warrant, the persons
10 responsible for planning the raid, the supervisor of the named officers and the persons responsible
11 for the training of the officers as to how to conduct search and seizure. Plaintiff is informed and
12 believes and thereon alleges that each of the Defendants designated herein as a DOE Defendant is
13 responsible in some manner for the events and happenings referred to herein, and caused injury and
14 damages proximately thereby to Plaintiff, as herein alleged, and Plaintiff will ask leave of this Court,
15 as may be necessary, to amend this Complaint to insert the true names and capacities of these
16 Defendants when the same have been ascertained by Plaintiff, together with appropriate charging
17 allegations, and join such Defendants in this action.

18 11. At the times alleged herein, Defendants KUBLA, CLEMENTS, GONZALES,
19 BACKMAN, ROTHENBURG, BERTUCCINI and DOES I-XX, inclusive were the actual,
20 apparent, implied, or ostensible agents of Defendant LVMPD. Therefore, Defendant LVMPD is
21 responsible for the injuries and damages caused to the Plaintiff under the theory of respondeat
22 superior, NRS § 41.130 and to the extent applicable NRS § 42.007.

23 12. Venue is proper in the United States District Court for the District of Nevada under
24 28 U.S.C. § 1391 because the Defendants reside in the District and the events giving rise to the
25 claim occurred in the District of Nevada.

26 13. The Court has personal jurisdiction over the Defendants because they have minimum
27 contacts with the state of Nevada and under FRCP 4(k) are subject to personal jurisdiction in the
28 Eighth Judicial District Court of Nevada.

1 14. This Court has subject matter jurisdiction over this action pursuant to 28 USC § 1331
2 (federal question jurisdiction), 28 USC § 1343(a) (jurisdiction over civil rights claims), and 28 USC
3 § 1337 (supplemental jurisdiction over state law claims). This case is brought, in part, under 42 USC
4 §§ 1983, 1985, 1986, 1988 and the Fourth and Fourteenth Amendments of the United States
5 Constitution.

6 15. Plaintiff alleges that the causes of action contained herein do not require exhaustion
7 of administrative remedies. *Eggleston v. Stuart*, 495 P.3d 482, 486 (Nev. 2021) (“a party generally
8 is not required to exhaust administrative remedies before filing a § 1983 civil rights claim”).
9 Regardless, Plaintiff affirmatively alleges that she submitted a “claim” pursuant to NRS § 41.036
10 and § 41.039 to LVMPD on or about January 4, 2024 with no response from LVMPD as of the date
11 of this filing.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

13 16. This lawsuit is the tragic result of LVMPD and its officers failing to reasonably
14 execute a search and seizure and abide by the knock-and-announce rule. These failures led to an
15 explosively dangerous and completely unnecessary situation which resulted in the death of an
16 innocent, 19-year-old black man.

17 17. The United States and Nevada constitutions require that search and seizure
18 conducted by a peace officer must be reasonable. Even if officers have a search or arrest warrant,
19 the manner of service or execution of that warrant must also be reasonable.

18. On January 10, 2022 at approximately 5:00 a.m., Defendants KUBLA, CLEMENTS,
GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI and DOES I-XX (collectively the
“officers”) approached an apartment located 3050 S Nellis Blvd, Las Vegas, NV 89121.

19. The officers intended to serve a search and/or arrest warrant on a third party for a
20 crime committed at another location two months earlier.

25 20. On information and belief, the officers lacked a “no-knock” warrant. In fact, Plaintiff
26 has been unable to locate any search or arrest warrant of any kind in force on the day in question
27 and, thus, would seek leave to amend this Complaint to assert that the officers lacked a warrant at
28 the times alleged herein if discovery shows this to be true.

1 21. Prior to serving the warrant, the officers lacked probable cause or reasonable
2 suspicion (1) that the suspect, as opposed to other individuals, was actually inside the apartment,
3 (2) that any criminal activity was presently occurring inside the apartment, or (3) that any occupant
4 of the apartment was actually armed. Simple research by law enforcement would have caused the
5 officers to learn that (4) the apartment was neither rented by nor regularly occupied by the suspect
6 for which they were searching.

7 22. The officers, who were part of LVMPD's S.W.A.T. team, chose to execute the
8 warrant at approximately 5:00 a.m., a time they knew any occupants of the apartment would likely
9 be asleep, and in darkness, a practice that LVMPD would later state is a common practice at the
10 department ironically done because it was allegedly "safer" for officers and the community. They
11 planned in advance to use force to enter the apartment after the second search warrant announcement
12 was made, a process they knew would take only seconds before force was used.

13 23. The officers also planned in advance and later actually deployed a stun stick and a
14 noise flash device into the apartment simultaneous with their announcements which, by their very
15 nature, are designed to confuse persons and impair their hearing, including potentially the ability to
16 hear the officers' required announcement of their presence and purpose.

17 24. More specifically, during the raid officers BERTUCCINI and ROTHENBURG were
18 positioned by the west window of the ground floor apartment which they would break to deploy a
19 stun stick device while officers KUBLA, CLEMENTS, GONZALES, BACKMAN were at the front
20 door which they would forcibly knock down with a battering device.

21 25. The United States Constitution, Federal law, Nevada law and the State of Nevada
22 Commission on Peace Officer Standards and Training for execution of warrants and LVMPD's own
23 internal policies and procedures all require that officers who are not serving a no-knock warrant
24 must (1) knock and announce to declare their presence and purpose and (2) wait to allow a
25 reasonable opportunity for persons inside any dwelling to ascertain the identity of the officers and
26 comply with the request for admittance prior to using any force to enter a dwelling. This is known
27 as the knock-and-announce rule but is more accurately described as the knock-and-announce-and-
28 wait rule.

1 26. The United States Supreme Court found in *Wilson v. Arkansas*, 514 U.S. 927 (1995)
2 that this knock-and-announce rule is part of the requirements of the Fourth Amendment to the United
3 States Constitution and that officers who are not serving a no-knock warrant must (1) knock-and-
4 announce their presence and intent and then (2) wait a “reasonable” amount of time to determine
5 whether the officers will be refused entry before using force to enter a dwelling to execute the
6 warrant.

7 27. Federal law, 18 U.S.C. § 3109, imposes a knock-and-announce rule on officers
8 executing a warrant and, even if this statute is applicable only to federal law enforcement officers,
9 it sets forth an industry standard for law enforcement.

10 28. Nevada state law, NRS § 179.055, imposes a knock-and-announce rule on Nevada
11 peace officers executing a warrant and states that they may use force to enter a dwelling only “after
12 notice of authority and purpose, the officer is refused admittance.”

13 29. Police policies and practices adopted by the State of Nevada Commission on Peace
14 Officer Standards and Training as well as LVMPD’s own policies and procedures impose a knock-
15 and-announce rule on officers executing a warrant and states that “approximately **one minute** would
16 be a safe period in most cases....” for the officers to wait after stating their authority and purpose to
17 determine whether they may use force to enter the dwelling.

18 30. While there is no bright-line rule as to what constitutes a reasonable amount of time
19 for officers to wait, the United States Ninth Circuit Court of Appeals has noted that there must be a
20 lapse of “a significant amount of time” after the knock-and-announce before officers may forcibly
21 enter the premises. *United States v. Mendonsa*, 989 F.2d 366, 370 (9th Cir. 1993). This time period
22 must allow the occupants “a reasonable opportunity to ascertain who was at the door and to respond
23 to [the officers’] request for admittance” and “the fact that the warrant was executed early in the
24 morning when it was likely the occupants...would be asleep” dictates a longer reasonable amount
25 of time the officers must wait. *United States v. Granville*, 222 F.3d 1214, 1218 (9th Cir. 2000). The
26 Ninth Circuit has noted that “[t]he shortest wait we have upheld is **ten seconds**...[u]sually, the wait
27 is much longer.” *Id.*

28

1 31. According to LVMPD's own internal Force Investigation Team (FIT) report
2 following the incident, the officers arrived and began to yell "police, search warrant" at 4:59:56 and
3 began forcibly entering the property by breaking a window to deploy a stun stick distraction just **8**
4 **seconds** later, a time period by the Ninth Circuit Court of Appeals' own words it has never held
5 reasonable under any circumstance.

6 32. Officers began ramming the front door just 10 seconds after announcing their
7 presence, an amount of time that is completely unreasonable to rouse someone from their sleep and
8 give them a reasonable opportunity to ascertain who was at the door and to respond to the officers'
9 request for admittance.

10 33. At the same time, officers deployed what is known as a stun stick and a noise flash
11 device, which by their very nature would make it difficult for a person inside the dwelling to hear
12 officers announcing themselves and their purpose.

13 34. At the time the forcible entry into the apartment was executed, Williams was asleep
14 on the living room couch of the apartment just inside the front door. He had a handgun next to him
15 for protection.

16 35. Because the officers failed to allow Williams a reasonable opportunity to ascertain
17 who was at the door and to respond to the officers' request for admittance, Williams had only
18 seconds to assess the situation as he was roused from his sleep.

19 36. At this time, due to the extremely dangerous circumstances the officers created by
20 failing to properly abide by the knock-and-announce requirement, conducting the raid at 5:00 a.m.
21 in the dark, and deploying noise and distraction devices which sound like gunfire, Williams did not
22 realize the armed men entering the apartment were law enforcement officers with a warrant. He
23 made a tragic decision to grab the firearm he kept for protection and fired on the officers, mistakenly
24 believing them to be intruders. The officers returned fire and shot Williams at least 17 times, some
25 to the back shoulder, buttocks and back of the legs. Williams had such little reaction time he was
26 initially still laying down on the couch as officers shot him.

27

28

1 37. Williams survived his injuries for a brief time. As he lay bleeding to death on the
 2 floor and coughing up his own blood with his last breaths, the officers tied his hands behind his back
 3 with a zip tie as he died at the scene. Officers attempted no emergency medical care to save his life.

4 38. After the death of Williams, the officers discovered (1) Williams was not the suspect
 5 the officers were looking to arrest, (2) the suspect was not even present at the apartment, and
 6 (3) there was no contraband or evidence of a crime in the apartment. There is no evidence that
 7 Williams even knew the suspect. The suspect was not even the renter of the apartment.

8 39. Williams' story is yet another tragic death of a young, black male who was engaged
 9 in no illegal activity at the time of his death who died simply because law enforcement did not
 10 properly perform their jobs as Constitutionally and statutorily required.

FIRST CLAIM FOR RELIEF

(Violation of Federal Civil Rights Under 42 U.S.C. § 1983 et. seq. – Fourth Amendment)

13 40. Plaintiff re-alleges and incorporates by reference each and every allegation contained
 14 in Paragraphs 1-39 as if fully set forth herein.

15 41. This cause of action is pleaded by Plaintiff ALEXANDER only against the following
 16 Defendants in their individual capacities as state actors: Defendants KUBLA, CLEMENTS,
 17 GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants.

18 42. The Fourth Amendment to the United States Constitution states that “[t]he right of
 19 the people to be secure in their persons, houses, papers, and effects, against unreasonable searches
 20 and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported
 21 by Oath or affirmation, and particularly describing the place to be searched, and the persons or
 22 things to be seized.”

23 43. The reasonableness requirement of the Fourth Amendment extends to the manner in
 24 which police execute otherwise valid searches, and generally requires that they knock, announce
 25 their presence and purpose, and then wait a reasonable amount of time for the occupant of a dwelling
 26 to ascertain the identity of the officers and allow them inside the dwelling. *See, e.g., United States*
v. Banks, 540 U.S. 31, 35, 124 S. Ct. 521, 157 L. Ed. 2d 343 (2003).

28 44. Unlawful entry by officers and unlawful mode of entry by use of force, both of which

1 Plaintiff alleges in this action by the Defendants, violate the Fourth Amendment as an unreasonable
2 search and seizure.

3 45. The Fourth Amendment has been held applicable to the States and individual state
4 actors, a process called incorporation, pursuant to the Due Process Clause of the Fourteenth
5 Amendment to the United States Constitution. *Mapp v. Ohio*, 367 U.S. 643, 655, 81 S. Ct. 1684,
6 1691 (1961) (incorporation of Fourth Amendment).

7 46. Pursuant to 42 USC § 1983, “[e]very person who, under color of any statute,
8 ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia,
9 subjects, or causes to be subjected, any citizen of the United States or other person within the
10 jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the
11 Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other
12 proper proceeding for redress...”

13 47. At the times alleged in the complaint on January 10, 2022, Defendants KUBLA,
14 CLEMENTS, GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE
15 Defendants were state actors of the State of Nevada or its political subdivisions, acting under color
16 of law.

17 48. Defendants KUBLA, CLEMENTS, GONZALES, BACKMAN, ROTHENBURG,
18 BERTUCCINI and all other DOE Defendants did violate the civil rights of the Plaintiff under the
19 Fourth Amendment by, without limitation, unlawful entry and unlawful mode of entry by failing to
20 properly knock-and-announce and allow a reasonable time for Williams to ascertain the officer's
21 identities and provide them admittance, shooting and killing Williams, provoking a violent
22 confrontation, and using excessive force to conduct the search and seizure considering the totality
23 of the circumstances.

24 49. The acts of Defendants KUBLA, CLEMENTS, GONZALES, BACKMAN,
25 ROTHENBURG, BERTUCCINI and all other DOE Defendants, which were done in concert,
26 deprived Williams of his rights, privileges, or immunities secured by the Constitution or laws of the
27 United States.

28 50. Defendants KUBLA, CLEMENTS, GONZALES, BACKMAN, ROTHENBURG,

1 BERTUCCINI and all other DOE Defendants lacked any valid justification or Constitutional
 2 exception for their unlawful actions.

3 51. At the times alleged herein, the Constitutional rights of Williams were clearly
 4 established and it would be clear to a reasonable officer/actor that his/her conduct was unlawful in
 5 the situation he/she was confronted.

6 52. As a result of the violation of Williams' civil rights, he died. Prior to his death he
 7 sustained physical injury with tremendous pain and suffering, emotional distress, and nominal
 8 damages in an amount to be proven at trial. ALEXANDER as an heir has also experienced her own
 9 grief, loss, sorrow and companionship of her son. These damages will be determined at trial but are
 10 alleged to exceed One Million Dollars (\$1,000,000).

11 53. The aforementioned acts of the Defendants were the proximate cause of Williams'
 12 injuries and death.

13 54. Plaintiff ALEXANDER brings this wrongful death and survivorship action in her
 14 capacity as an heir and Special Administrator of Williams' estate for all damages recoverable under
 15 NRS § 41.085 and NRS § 41.100.

16 55. The acts of Defendants KUBLA, CLEMENTS, GONZALES, BACKMAN,
 17 ROTHENBURG, BERTUCCINI and all other DOE Defendants were taken with oppression, fraud
 18 or malice and/or their conduct was motivated by evil motive or intent, or involved reckless or callous
 19 indifference to the federally protected rights of others, therefore Plaintiff seeks punitive damages.

20 56. Plaintiff is entitled to attorney's fees, costs of suit, expert fees and interest, including
 21 attorney's fees and expert fees pursuant to 42 USC § 1988 and all other applicable law.

SECOND CLAIM FOR RELIEF

(Violation of Federal Civil Rights Under 42 U.S.C. § 1983 et. seq. – Fourteenth Amendment)

24 57. Plaintiff re-alleges and incorporates by reference each and every allegation contained
 25 in Paragraphs 1-56 as if fully set forth herein.

26 58. This cause of action is pleaded by Plaintiff ALEXANDER only against the following
 27 Defendants in their individual capacities as state actors: Defendants KUBLA, CLEMENTS,
 28 GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants.

1 59. The Fourteenth Amendment prohibits a state from depriving "any person of life,
 2 liberty, or property, without due process of law." The Fourteenth Amendment encompasses a
 3 "constitutional right to associate with family members." *Lipscomb By & Through DeFehr v.*
 4 *Simmons*, 884 F.2d 1242, 1244 (9th Cir. 1989). "A decedent's parents and children generally have
 5 the right to assert substantive due process claims under the Fourteenth Amendment" for the death
 6 of their loved one. *Wheeler v. City of Santa Clara*, 894 F.3d 1046, 1057 (9th Cir. 2018).

7 60. Based on the allegations set forth herein, Defendants KUBLA, CLEMENTS,
 8 GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants
 9 deprived ALEXANDER of her substantive due process rights to associate with Williams.

10 61. The manner in which the Defendants conducted the search and seizure and killed
 11 Williams shocks the conscience and it was deliberately planned in advance to enter the property
 12 forcefully without allowing a sufficient time for persons inside the apartment to ascertain the identity
 13 of the officers and comply with their requests for admittance.

14 62. The acts of Defendants KUBLA, CLEMENTS, GONZALES, BACKMAN,
 15 ROTHENBURG, BERTUCCINI and all other DOE Defendants, which were done in concert,
 16 deprived ALEXANDER of her rights, privileges, or immunities secured by the Constitution or laws
 17 of the United States.

18 63. Defendants KUBLA, CLEMENTS, GONZALES, BACKMAN, ROTHENBURG,
 19 BERTUCCINI and all other DOE Defendants lacked any valid justification or Constitutional
 20 exception for their unlawful actions.

21 64. At the times alleged herein, the Constitutional rights of Williams and ALEXANDER
 22 were clearly established and it would be clear to a reasonable officer/actor that his/her conduct was
 23 unlawful in the situation he/she was confronted.

24 65. As a result of the constitutional violations, ALEXANDER has experienced her own
 25 grief, loss, sorrow and companionship of her son. These damages will be determined at trial but are
 26 alleged to exceed One Million Dollars (\$1,000,000).

27 66. The aforementioned acts of the Defendants were the proximate cause of
 28 ALEXANDER's injuries.

67. The acts of Defendants KUBLA, CLEMENTS, GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants were taken with oppression, fraud or malice and/or their conduct was motivated by evil motive or intent, or involved reckless or callous indifference to the federally protected rights of others, therefore Plaintiff seeks punitive damages.

68. Plaintiff is entitled to attorney's fees, costs of suit, expert fees and interest, including attorney's fees and expert fees pursuant to 42 USC § 1988 and all other applicable law.

THIRD CLAIM FOR RELIEF

(Violations of Nevada Constitution/Constitutional Tort)

69. Plaintiff re-alleges and incorporates by reference each and every allegation contained in Paragraphs 1-68 as if fully set forth herein.

70. This cause of action is pleaded by Plaintiff against the following Defendants: LVMPD, KUBLA, CLEMENTS, GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants.

71. The Nevada Constitution Art. I Sec. 18 states that “[t]he right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches shall not be violated; and no warrant shall issue but on probable cause, supported by Oath or Affirmation, particularly describing the place or places to be searched, and the person or persons, and thing or things to be seized.” This includes the knock and announce rule and use of excessive force to enter a dwelling.

72. Nevada state law, NRS § 179.055, imposes a knock-and-announce rule on Nevada peace officers executing a warrant and states that they may use force to enter a dwelling only “after notice of authority and purpose, the officer is refused admittance.”

73. The Nevada Constitution Art. I Sec. 8 states that “[n]o person shall be deprived of life, liberty, or property, without due process of law.”

74. The Nevada Supreme Court has held that there is a private cause of action under the Nevada Const. Art. I Sec. 18 for retrospective monetary relief, a so-called Constitutional Tort. *Mack v. Williams*, 522 P.3d 434, 450 (Nev. 2022). Plaintiff asserts that there is also a cause of action for violation of substantive due process for violation of Nevada Constitution Art. I Sec. 8.

1 75. At the times alleged in the Complaint, Defendants LVMPD, KUBLA, CLEMENTS,
2 GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants were
3 state actors or political subdivisions of the State of Nevada, acting under color of law.

4 76. Defendants LVMPD, KUBLA, CLEMENTS, GONZALES, BACKMAN,
5 ROTHENBURG, BERTUCCINI and all other DOE Defendants did violate the civil rights of the
6 Plaintiff or the decedent under the Nevada Constitution, Art. I Sec. 18 and Nevada law in the
7 following ways, without limitation: Unlawfully entering the apartment and using an unlawful mode
8 of entry by failing to properly knock-and-announce and allow a reasonable time for Williams to
9 ascertain the officer's identities and provide them admittance, shooting and killing Williams,
10 provoking a violent confrontation, and using excessive force to conduct the search and seizure
11 considering the totality of the circumstances.

12 77. Based on the acts pleaded in the prior Paragraph, Plaintiff ALEXANDER also has a
13 direct cause of action against the Defendants for violation of her substantive due process right to
14 associate with her family member, Williams, which the Defendants violated.

15 78. The acts of the Defendants LVMPD, KUBLA, CLEMENTS, GONZALES,
16 BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants, which were done in
17 concert, deprived Williams of his rights, privileges, or immunities secured by the Constitution or
18 laws of the state of Nevada.

19 79. Defendants LVMPD, KUBLA, CLEMENTS, GONZALES, BACKMAN,
20 ROTHENBURG, BERTUCCINI and all other DOE Defendants lacked any valid justification or
21 Constitutional exception for their unlawful actions.

22 80. The Nevada Supreme Court has expressly held that there is no qualified immunity
23 for Nevada Constitutional torts.

24 81. As a result of the violation of Williams' civil rights he died. Prior to his death he
25 sustained physical injury with tremendous pain and suffering, emotional distress, and nominal
26 damages in an amount to be proven at trial. ALEXANDER as an heir has also experienced her own
27 grief, loss, sorrow and companionship of her son. These damages will be determined at trial but are
28 alleged to exceed One Million Dollars (\$1,000,000).

1 82. The aforementioned acts of the Defendants were the proximate cause of Williams'
 2 injuries and death.

3 83. Plaintiff ALEXANDER brings this wrongful death and survivorship action in her
 4 capacity as an heir and administrator of Williams' estate for all damages recoverable under NRS
 5 § 41.085 and NRS § 41.100.

6 84. The acts of the Defendants LVMPD, KUBLA, CLEMENTS, GONZALES,
 7 BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants were taken with
 8 oppression, fraud or malice and/or their conduct was motivated by evil motive or intent, or involved
 9 reckless or callous indifference to the State constitutionally-protected rights of others, therefore
 10 Plaintiff seeks punitive damages.

11 85. Plaintiff specifically pleads to notify the Court that in this action she asserts that
 12 Nevada Constitutional Torts are not subject to Nevada's statutory limits on claims against the State
 13 found in NRS § 41.035 (monetary limit on damages, bar of punitive damages) because doing so
 14 would allow the State to, by statute, limit or bar claims against it which are imposed by the Nevada
 15 Constitution.

16 86. Plaintiff is entitled to attorney's fees, costs of suit, expert fees and interest.

FOURTH CAUSE OF ACTION

(Assault and Battery/Wrongful death and Survivorship)

19 87. Plaintiff re-alleges and incorporates by reference each and every allegation contained
 20 in Paragraphs 1-86 as if fully set forth herein.

21 88. This cause of action is pleaded by Plaintiff ALEXANDER against the following
 22 Defendants: LVMPD, KUBLA, CLEMENTS, GONZALES, BACKMAN, ROTHENBURG,
 23 BERTUCCINI and all other DOE Defendants.

24 89. On or about January 10, 2022, Williams was physically contacted by the Defendants
 25 in a manner that was harmful or offensive, including being shot at least 17 times.

26 90. The Defendants intended to contact Williams in an unconsented manner, and did so.

27 91. As a result of the assault and battery on Williams, he died. Prior to his death he
 28 sustained physical injury with tremendous pain and suffering, emotional distress, and in an amount

1 to be proven at trial. ALEXANDER as an heir has also experienced her own grief, loss, sorrow and
2 companionship of her son. These damages will be determined at trial but are alleged to exceed One
3 Million Dollars (\$1,000,000).

4 92. The aforementioned acts of the Defendants were the proximate cause of Williams'
5 injuries and death.

6 93. Plaintiff ALEXANDER brings this wrongful death and survivorship action in her
7 capacity as an heir and administrator of Williams' estate for all damages recoverable under NRS
8 § 41.085 and NRS § 41.100.

9 94. LVMPD was the principal or employer of KUBLA, CLEMENTS, GONZALES,
10 BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants at the time of the
11 events and, therefore, is vicariously liable for their actions.

12 95. The acts of the Defendants were taken with oppression, fraud or malice and/or their
13 conduct was motivated by evil motive or intent, or involved reckless or callous indifference to the
14 federally protected rights of others, therefore Plaintiff seeks punitive damages.

15 96. Plaintiff is entitled to attorney's fees, costs of suit, expert fees and interest.

FIFTH CAUSE OF ACTION

17 (Intentional or Negligent Infliction of Emotional Distress-Wrongful Death and Survivorship)

18 97. Plaintiff re-alleges and incorporates by reference each and every allegation contained
19 in Paragraphs 1-96 as if fully set forth herein.

20 98. This cause of action is brought by Plaintiff against the following Defendants:
21 LVMPD, KUBLA, CLEMENTS, GONZALES, BACKMAN, ROTHENBURG, BERTUCCINI
22 and all other DOE Defendants.

23 99. Prior to his death, Williams experienced extreme emotional distress as a result of
24 being shot at least 17 times, some to the back of his shoulder, buttocks and back of the legs, from
25 noise flashes needlessly deployed on him, and from being zip tied and placed on the floor while he
26 bled to death.

27 100. The conduct of the Defendants was extreme and outrageous, meaning it was outside
28 all possible bounds of decency and is regarded as utterly intolerable in a civilized community.

1 101. The Defendants' actions were done intentionally or negligently.

2 102. As a result of the violation of Williams' civil rights and the acts set forth above, he
3 died. Prior to his death he sustained severe emotional distress, anguish, horror, worry, grief and
4 shock, in an amount to be proven at trial but exceeding One Million Dollars (\$1,000,000).

5 103. The aforementioned acts of the Defendants were the proximate cause of Williams'
6 emotional distress and death.

7 104. Plaintiff ALEXANDER brings this wrongful death and survivorship action in her
8 capacity as an heir and administrator of Williams' estate for all damages recoverable under NRS
9 § 41.085 and NRS § 41.100.

10 105. LVMPD was the principal or employer of KUBLA, CLEMENTS, GONZALES,
11 BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants at the time of the
12 events and, therefore, is vicariously liable for their actions.

13 106. The acts of the Defendants were taken with oppression, fraud or malice and/or their
14 conduct was motivated by evil motive or intent, or involved reckless or callous indifference to the
15 federally protected rights of others, therefore Plaintiff seeks punitive damages.

16 107. Plaintiff is entitled to attorney's fees, costs of suit, expert fees and interest.

SIXTH CAUSE OF ACTION

(Negligence- Wrongful Death and Survivorship)

17 108. Plaintiff re-alleges and incorporates by reference each and every allegation contained
18 in Paragraphs 1-107 as if fully set forth herein.

19 109. This cause of action is pleaded by Plaintiff ALEXANDER against the following
20 Defendants: LVMPD, KUBLA, CLEMENTS, GONZALES, BACKMAN, ROTHENBURG,
21 BERTUCCINI and all other DOE Defendants.

22 110. Defendants owed a duty of care to Williams to properly execute a warrant on the
23 apartment where he was inside, to lawfully enter the apartment where he was, and to use a lawful
24 mode of entry to enter.

25 111. This duty of care is established by the United States and the Nevada constitutions,
26 federal and law statutes, LVMPD internal policies and procedures, and other industry standards for

1 police conduct.

2 112. The Defendant officers breached their duty by negligently performing their search
3 and seizure through negligent tactical conduct preceding their use of deadly force, including failing
4 to confirm the suspect was in the apartment, that he rented or regularly used the apartment, by
5 conducting the raid at 5:00 a.m. in darkness, by deploying distraction devices that would prevent a
6 person from understanding the officers stating their presence and purpose, and by failing to perform
7 a legal knock and announce by not allowing a reasonable opportunity for persons inside the
8 apartment dwelling to ascertain the identity of the officers and comply with the request for
9 admittance prior to using any force to enter a dwelling.

10 113. As a result of the violation of Williams' civil rights and the acts set forth above, he
11 died. Prior to his death he sustained physical injury with tremendous pain and suffering,
12 emotional distress, and in an amount to be proven at trial. ALEXANDER as an heir has also
13 experienced her own grief, loss, sorrow and companionship of her son. These damages will be
14 determined at trial but are alleged to exceed One Million Dollars (\$1,000,000).

15 114. The aforementioned acts of the Defendants were the proximate cause of Williams'
16 emotional distress and death.

17 115. Plaintiff ALEXANDER brings this wrongful death and survivorship action in her
18 capacity as an heir and administrator of Williams' estate for all damages recoverable under NRS
19 § 41.085 and NRS § 41.100.

20 116. LVMPD was the principal or employer of KUBLA, CLEMENTS, GONZALES,
21 BACKMAN, ROTHENBURG, BERTUCCINI and all other DOE Defendants at the time of the
22 events and, therefore, is vicariously liable for their actions.

23 117. The acts of the Defendants were taken with oppression, fraud or malice and/or their
24 conduct was motivated by evil motive or intent, or involved reckless or callous indifference to the
25 federally protected rights of others, therefore Plaintiff seeks punitive damages.

26 118. Plaintiff is entitled to attorney's fees, costs of suit, expert fees and interest.

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SEVENTH CAUSE OF ACTION

(*Monell* Claims)

119. Plaintiff re-alleges and incorporates by reference each and every allegation contained
in Paragraphs 1-118 as if fully set forth herein.

120. This cause of action is pleaded by Plaintiff ALEXANDER against the following
Defendants: LVMPD.

121. This cause of action is pleaded to assert liability of LVMPD pursuant to *Monell v.
Dep't of Soc. Servs.*, 436 U.S. 658, 98 S. Ct. 2018 (1978) and 42 U.S.C. § 1983.

122. Williams was deprived of his constitutional rights in violation of the Federal and
State Constitutions and he was killed as a result.

123. LVMPD had a policy, practice or custom that caused the Constitutional deprivation.

124. More specifically, LVMPD has a policy, practice or custom of executing search
warrants in the early hours of the morning, in the dark, and not abiding by the knock-and-announce
requirement, allowing no time for a sleeping person to reasonably ascertain who was at the door and
to respond to the officer's request for admittance.

125. This policy, practice or custom is a longstanding practice or custom which constitutes
the "standard operating procedure" of the local government entity and/or an official with final
policymaking authority has ratified these decisions by subordinates.

126. In this case, a superior officer specifically confirmed at a press conference that it was
common procedure for LVMPD to execute warrants of this kind in the early morning hours when
people are asleep and LVMPD's Force Investigation Team (FIT) investigated Williams' shooting,
found it justified and thus ratified the actions of the officers.

127. LVMPD's policy or custom amounted to deliberate indifference to Williams'
constitutional rights.

128. LVMPD's policy or custom was the moving force behind the constitutional violation.

129. LVMPD failed to properly screen, train, supervise and/or discipline its attendant and
protective personnel.

130. As a result of the violation of Williams' civil rights, he died. Prior to his death he

1 sustained physical injury with tremendous pain and suffering, emotional distress, and in an amount
2 to be proven at trial. ALEXANDER as an heir has also experienced her own grief, loss, sorrow and
3 companionship of her son. These damages will be determined at trial but are alleged to exceed One
4 Million Dollars (\$1,000,000).

5 131. The aforementioned acts of the Defendants were the proximate cause of Williams'
6 injuries and death.

7 132. Plaintiff ALEXANDER brings this wrongful death and survivorship action in her
8 capacity as an heir and administrator of Williams' estate for all damages recoverable under NRS
9 § 41.085 and NRS § 41.100.

10 133. The acts of LVMPD were taken with oppression, fraud or malice and/or their conduct
11 was motivated by evil motive or intent, or involved reckless or callous indifference to the federally
12 protected rights of others, therefore Plaintiff seeks punitive damages.

134. Plaintiff is entitled to attorney's fees, costs of suit, expert fees and interest.

14 | WHEREFORE, Plaintiff prays for the following relief:

15 1. For compensatory damages for physical injury, emotional distress, wrongful death,
16 and nominal damages in an amount to be determined at trial but exceeding \$1,000,000;

17 || 2. For punitive damages;

18 3. For reasonable costs, interest and attorney's fees pursuant to 42 USC §§ 1983 and
19 1988 and all other applicable law;

20 || 4. Any further relief the Court deems appropriate.

21 || DATED this 9th day of January, 2024.

BREEDEN & ASSOCIATES, PLLC

Adam J. Breen

ADAM J. BREEDEN, ESQ.
Nevada Bar No. 008768
7432 W. Sahara Ave., Suite 101
Las Vegas, Nevada 89117
Phone: (702) 819-7770
Fax: (702) 819-7771
Adam@Breedenandassociates.com
Attorneys for Plaintiff

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2 **DEMAND FOR JURY TRIAL**

3 Plaintiff requests a jury trial in this matter.

4 DATED this 9th day of January, 2024.

5 **BREEDEN & ASSOCIATES, PLLC**

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7

ADAM J. BREEDEN, ESQ.

8 Nevada Bar No. 008768

9 7432 W. Sahara Ave., Suite 101

10 Las Vegas, Nevada 89117

11 Phone: (702) 819-7770

12 Fax: (702) 819-7771

13 Adam@Breedenandassociates.com

14 *Attorneys for Plaintiff*

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